



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

## ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

September 8, 2009

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*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

Dear Supervisors:

### TECHNICAL CHANGES TO THE DEFINED CONTRIBUTION PLANS (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

#### SUBJECT

The accompanying ordinance makes technical amendments to the County's 457 Deferred Compensation & Thrift Plan (Horizons Plan) and the 401(k) Savings Plan to accommodate a new form of investment option known as a "Self-Directed Brokerage Window." Although the Savings Plan was amended in December 2008 with similar changes, implementation of a brokerage window in that plan was withheld pending selection of a window broker and approval of the mirroring Horizons brokerage window ordinance. The respective Plan Administrative Committees (PACs) governing the Horizons Plan and Savings Plan are empowered to select the broker and have selected the firm of Charles Schwab. All that is now required to fully implement this program is your Board's adoption of the accompanying ordinance.

The accompanying ordinance also makes other technical changes to the Horizons Plan, Savings Plan, and Pension Savings Plan necessary to clarify existing policy, simplify plan administration, or conform plan provisions with the requirements of federal tax law and related Internal Revenue Service (IRS) regulations. All of the changes included in these recommendations are technical. None of them pose any additional County cost.

*"To Enrich Lives Through Effective And Caring Service"*

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**IT IS RECOMMENDED THAT YOUR BOARD:**

Adopt the accompanying ordinance amending the 457 Horizons Plan to permit the implementation of a Self-Directed Brokerage Account and make technical changes to Horizons, the 401(k) Savings Plan, and the 457 Pension Savings Plan to improve administration and comply with tax laws and IRS regulations.

**PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The Horizons Plan and Savings PACs are responsible for the administration of their respective Plans, including the selection of the investment options made available to participants. This includes responsibility for the contracting related to the investment options. In this connection, the PACs have adopted a new investment model that provides three unique investment vehicles: Target Date Funds, Asset Class Funds, and a Self-Directed Brokerage Window. The underlying fund managers for the Target Date Funds and Asset Class Funds are selected and monitored by the PACs according to investment policies and other criteria adopted by the PACs. Communications material on the new options was recently disseminated to all Plan participants. Educational "workshops" were also held throughout the County.

The Self-Directed Brokerage Window provides participants with the opportunity to invest in securities not otherwise available through the plans. This includes individual stocks and bonds of publicly traded companies on the major exchanges as well as other mutual funds not currently provided through the plans. Certain investment vehicles will be excluded, however, if not permitted by law or if otherwise inappropriate for defined contribution plans. This would include, for example, leveraged investments where the potential for loss may be greater than an individual's account balance. Also excluded are investments in options, futures, currencies, and other potentially speculative investments. The PACs have the discretion to place restrictions on these and other forms of investments as they deem appropriate.

The brokerage window is clearly an option geared toward the more experienced and knowledgeable investors who understand the risks involved. The PACs communications efforts on this program have emphasized this point. Moreover, each investor must agree to assume all risk as a condition of participating in this option. The amendments included in the accompanying ordinance codify the changes in administrative procedures and other changes to the "plan documents" that are necessary to implement the brokerage window.

We intend to implement the brokerage window simultaneously in both the 401(k) Savings Plan and 457 Horizons Plan following your Board's adoption of all the necessary County Code changes for both programs. We expect that plan participants will be able to enroll and begin trading through the brokerage window by October 1, 2009.

The accompanying ordinance makes other technical housekeeping changes to the Horizons Plan, the 401(k) Savings Plan, and the Pension Savings Plan. The Pension Savings Plan is a federally mandated defined contribution plan applicable to temporary County employees not otherwise eligible for membership in Los Angeles County Employee Retirement Association (LACERA). The recommended changes include the following:

- The Horizons Plan and Pension Savings Plan are being amended to identify Roth IRAs as an eligible form of retirement plan to receive rollover distributions from these plans.
- Previously approved 401(k) Savings Plan provisions related to the brokerage window are being amended to clarify the federally mandated rights of beneficiaries under the program.
- The Horizons Plan is being amended to strike the requirement that an eligible employee be a member of LACERA. This provision is unnecessary given that the Horizons Plan already requires that eligible employees must be permanent full-time employees – which is the same requirement imposed by LACERA. The information exchange/verification process required by the current language is inappropriately delaying enrollments in the Horizons Plan.

#### **FISCAL IMPACT/FINANCING**

None. The administrative costs of the defined contribution plans are fully paid by fees charged to Plan participants. The costs of administering the Self-Directed Brokerage Window will likewise be fully paid by the participants who make use of that particular option.

#### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

Horizons, Savings Plan, and Pension Savings Plan are tax-favored defined contribution plans that must comply with existing tax law and regulatory requirements, including the requirement that plan operations must be consistent with the plan document. County Code Section 5.18, 5.25, and 5.26 serve as the federally required plan document for the Pension Savings Plan, Horizons, and Savings Plan, respectively, and must be amended when necessary to maintain compliance with the law. The proposed amendment will update the plan documents to reflect the brokerage window enhancement and other IRS required technical changes as outlined above.

The brokerage window was originally scheduled to coincide with the investment model conversion that occurred in the Horizons and Savings Plan last year. However, contract negotiations with Charles Schwab, the provider selected by the respective PACs, was more prolonged than expected as attorneys on both sides worked extensively to agree on contract language mutually acceptable to both sides. The contracts have now been fully executed with the understanding that Board approval of the underlying ordinance amendments is still required as a condition of actual implementation. Participant communication of the brokerage window rollout will be made through the Plan's website and quarterly newsletter.

The Coalition of County Unions and SEIU Local 721 have been notified regarding the amendments to the Horizons Plan and Pension Savings Plan and have expressed no opposition.

County Counsel has reviewed the accompanying ordinance as to form.

Respectfully submitted,



WILLIAM T FUJIOKA  
Chief Executive Officer

WTF:DIL  
WGL:DT:df

c: Executive Office, Board of Supervisors  
County Counsel  
Auditor-Controller  
Interim Director of Personnel  
Horizons Plan Administrative Committee  
Savings Plan Administrative Committee  
Pension Savings Plan Administrative Committee  
SEIU Local 721  
Coalition of County Unions